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FEB 18 1957
JOHN T. FEY, Clerk

# Supreme Court of the United States

October Term, 1956

No. 688

WILHELM REICH, ET AL.,
*Petitioners,*

*v.*

UNITED STATES OF AMERICA,
*Respondent.*

## PETITIONER'S REPLY BRIEF

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*Pro se*

Washington, D. C.
February 18, 1957

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## PETITIONER'S REPLY BRIEF

### I. STATEMENTS AND STATUTES INVOLVED

The Brief for the United States by the Respondent

1. fails to meet the facts and arguments of the petition: the deep conspiratorial background of the assault upon the Discovery of the Life Energy;

2. reiterates misrepresentation of fact by the complainant without having checked the factual basis for the complaint;

3. misapprehends the basic issue involved in the legal action (Pet. 3-6): Orders obtained by fraud are, as unlawful orders, null and void. (Pet. 20-35, R. 1-104)

The Respondent shifts the essence of the legal dispute from the basic issues of jurisdictional principles at stake in this legal test case to trivial, petty issues of no basic concern; however, we shall demonstrate the nature of these "petty," "trivial" issues, too.

**First**: The injunction against orgonomy and basic research was obtained by fraud (Pet. 20-35). The basic test question was: How far may distortion of fact systematically and with impunity be perpetrated upon American courts in the service of a criminal conspiracy? The injunction itself was only the test object; during the trial this fact was established through cross-examination of witnesses (R. 329-331, 337-338, 340-341, 342-344).

The defense did not plead "guilty"; the defense established *resistance to an unlawful order.* 18 U. S. C. 401(3) specifically speaks of *"LAWFUL"* writ, process, etc.

The legal test case was first introduced at the hearing in First District Court on July 27, 1955. Once the test case was successfully introduced into the court records, the *unlawful injunction was executed to the last word of the unlawful order*:

The Enemy of Man was trapped in his own network, which he had designed to entangle and to kill the Discovery of the Life Energy.

(1) As the Discoverer of the Cosmic Life Energy, I dodged his initial legal assault by *non-appearance in Court.* This pulled the carpet from under the feet of the conspirators.

(2) I ignored his injunction (fully entitled to do so legally because it was obtained by fraud and systematic deceit) (Pet. 20-35, R. 333-337, 348-353, 356-357; "Rec. App." Vol. III, Section IV, pp. 115-175).*

(3) When I had achieved his full self-disclosure as the Organizer of Evil, I forced him to suffer his own design: *He burned scientific books, destroyed scientific apparatus, prohibited à la Stalin and Hitler free thought and independent science.* I executed to the letter his unlawful injunction. More, I destroyed all organizations I had painstakingly built up 1940-1954 to serve research in Cosmic Energy.

**Second**: The Respondent reduced the fundamental dispute to the trivial accusation: " 'Misbranding' and shipment of 'adulterated' devices in interstate commerce." This accusation must be met right away:

1a) I had conditionally donated the income from the medical experimental use of the Life Energy for research purposes ("Rec. App." Vol. III, p. 19).

1b) *No factual proof of "misbranding" or "adulteration" was ever presented in the original complaint for injunction; no testimony was ever taken (asked for by Circuit Judge Woodbury at oral hearing in Circuit Court) to show "misbranding" of devices.* My reputation as a physician and natural scientist in itself is proof of bona fide experiments ("Rec. App." Vol. V; Pet. 11a, *et seq.*). It is evidenced in the impounded and burned literature. (See

* In accordance with the Clerk's Office and Record pages 585-586, Vol. III and Vol. V on OROP Desert Ea are submitted as Appendices or belated Exhibits to this Reply Brief (see p. 3a).

"Index to References," Pet. vi.) No cures were ever promised or "promoted," as falsely alleged in the original civil complaint; failures were conscientiously reported with successes; the experiments on patients were under *licensed* medical care. No damage ever done is on the records. No routine methods of medical care were ever obstructed. Surgery was specifically used; so was routine medication. The physicians (M.D.'s, licensed) who worked experimentally with the Life Energy are on official Court record by sworn affidavits regarding the medical effectiveness of the newly discovered Cosmic Energy. (*Baker* v. *United States,* 17 FRD 96, Record Appendix to Brief for Appellants, No. 4940, pp. A-53 to A-93.) The Respondent offered no factual proof of the allegations that "misbranded" devices have been shipped in *interstate* commerce. The experimental accumulators were not misbranded or harmful; thus, one central argument of the accusation collapses.

2) *The medical effectiveness of the Life Energy is very great;* it was exactly the incredible healing efficiency of the Life Energy that constituted a great obstacle in winning acceptance: some of these successes appeared "phantastic," and had to be reduced to credible proportions in order to win credibility. This medical efficiency is secondary to the basic issues involved; it is not the main point in question here. The point in question was and is misrepresentation of truth and fact; deceit perpetrated by an agency upon the discoverer and the courts all along the line, 1947-1956; such *deceitful opinion* cannot possibly be considered "proof" of "misbranding." The Respondent has ignored the factual evidence of this deceit.

3) *No medical experimental devices were shipped in interstate commerce after the injunction was issued, March 1954,* to the best of my knowledge. No proof of such allegation can be found on the trial record. No proof will be forthcoming of such technical violation, since it was my deliberate purpose to avoid defeat on such petty technical grounds, when basic, general principles in conducting my test case were at stake.*

4) I challenged the constitutionality of the application of the Federal Food, Drug and Cosmetic Act in the realm of basic natural scientific research. The orgone energy accumulators belong in the realm of *New Knowledge,* such as *cosmic energy* or *"ether."* Section 302a, as quoted, provides that jurisdiction can only be had *"for cause shown." No cause was shown in the proceedings before or at the trial; neither by testimony, evidence or affidavits.* The act, furthermore, supplements *"existing laws against unlawful restraint and monopolies."* Thus, the act was meant to *restrain* such actions as the complainant's assault on a basic discovery; it was not designed to restrain or control basic research in medicine or even in physics.

5) There was no violation of the Food and Drug Act by way of jurisdiction; neither was there any factually proven violation by "misbranding." Shipment of devices in interstate commerce in itself is, of course, no crime.

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* The shipment of the accumulators from Rangeley to New York was done by Dr. Silvert *to his own address, not for commercial reasons, without my knowledge or consent.* Dr. Silvert has conceded that he may well have been unknowingly induced by subversive conspirators to do this in order to provide some "proof" of interstate shipment *after* the injunction was issued. The assailant proved at the trial *only* that *CONTRIBUTIONS were received, NOT that accumulators* had been shipped after April 1954; these contributions were to my knowledge given for *intra*state, not *inter*state services, *technically speaking.*

Therefore: *There was factually no violation of any statute or injunction.*

6) The default to defend against the civil complaint (R. 409, et seq.) was the first step taken in testing *on principle* how far such misrepresentations and falsifications of fact may reach into the judicial system of the U. S. A.

7) The Respondent says: "The *only* (italics, WR) response to the complaint was contained in a letter from Petitioner Reich to the District Court, etc." (Resp. p. 4a). The Respondent omits the crucial fact that with this letter went a "*Response*" (R. 86 et seq.); it informed the acting Judge that:

(a) *the Court had no jurisdiction on basic research,* and that

(b) *a criminal conspiracy to destroy my discovery was afoot.*

8) Acting Judge Clifford failed to *examine the validity of this information before* proceeding further with issuing the injunction (Pet. 41, et seq., 44). Quote from Brief in Opposition: "The jurisdiction of the Court in the injunction proceeding had already been affirmatively determined in the *injunction proceeding itself*" (Italics by Pet.). The respondent overlooks the fact that, for example, an arrest does not *eo ipso* prove its legality. An arrest may be ordered and still be false or unlawful ("Rec. App." Vol. III, 47-69). *Jurisdiction in this case could only be established by examining the charge of Fraud and Conspiracy* (R. 1-104) at the very outset of the procedures.

9) Orgonomic literature was not "misleading labeling," was distributed independent of the experimental devices

(R. 121-123). Furthermore, it was shown in pre-trial proceedings that part of the literature was *published long before the discovery of the life energy*: ("The Mass Psychology of Fascism" (1933), "Character Analysis" (1934), "The Sexual Revolution" (1930-35), etc.; another part of the literature had nothing to do with "promotion" of cancer cures or any other "cures": "Cosmic Superimposition," "Ether, God and Devil" (R. 102-104). "Record Appendix" Vol. III, 125-126, shows who in reality promoted cancer cures.

**Third**: The Respondent invokes the amended information of October 10, 1955 (R. 470 et seq.). He omits the *illegal manipulations of procedures before and on October 10, 1955*, as reported to Judge Sweeney ("Rec. App." Vol. III, p. 47; WR Appeal Reply Brief, 5160, 18a *et seq.*).

**Fourth**: Quote from the Brief in Opposition: "*The accusation of fraud, misrepresentation, and misconduct of the government officials in obtaining the injunction, WHATEVER THEIR VALIDITY* (caps by Pet.) *have no relevance in a contempt proceeding for violation of the injunction.*" This legal opinion is incorrect on principle, catastrophic in reality. To base complaints for injunctions on private opinions without any factual evidence whatever, is the very mockery of the judicial power and dignity of the United States of which the petitioner is wrongly accused. *The fraud by the FDA is on record, proven beyond doubt, an undeniable FACT* (Pet. 20-37). It was not the accused, but the accuser, who *factually* committed the crime of contempt of court. *Proven fraudulent procedure on the part of administrative agents vitiates on principle any other procedure, such as an injunction.* ("Questions Involved," Pet. 3-5, "Fraud upon Court," Pet. 20-37, 20a-26a, and 27a-29a.)

## II. ARGUMENT
## and
## Summary of Facts

By **omission and falsification of fact,** an administrative agency practiced deceit and fraud upon courts all along the line. Arbitrary, unproved opinion *cannot* possibly be considered legal *"proof"* of *"misbranding"* or any other similar accusation. The original complaint for injunction (1056, February 10, 1954), contains no PROOF of misbranding or damage to patients. The Respondent did not add any proof.

It was specifically the lack of any factual proof in the original complaint which forced this case to become a *supreme legal test case as to whether individuals in social administration may with impunity drag bona fide scientists into courts of justice by way of falsification and misrepresentation of facts in the service of a commercial and political conspiracy, with the intent to destroy a discovery and to kill the discoverer morally and physically* (R. 1-104).

Fraud upon courts cannot be a *legal* means to obtain unlawful, unconstitutional injunctions against crucial scientific work.

We are not living in a Stalinite-Hitlerite America. Any such possibilities must be resisted by all means available in our Constitution; this Constitution includes the right of the responsible citizen to possess and carry arms under the law. It includes the duty of the citizen to protect the American Constitution against Enemies of Self-Rule, to resist intrusion into archives, scientific protocols, homes, laboratories by Enemies of Mankind and those who steal

discoveries in the dark of the night. People have risked their lives for far lesser issues than those presented by my discovery of the Cosmic Life Energy.

The following scientific works went up in flames between June and August of 1956, on order of agents of the food, drug and cosmetic agency:

1. *The Function of the Orgasm*, 1942 (banned)
2. *The Cancer Biopathy*, 1948 (banned)
3. *The Orgone Energy Vesicles (Bions)*, 1942
4. *Experiment XX*, 1945
5. *The Visualization of the Atmospheric Orgone*, 1942
6. *The Mechanism of the Concentration of the Atmospheric Orgone*, 1943
7. *Thermical Orgonometry*, 1943-44
8. *Electroscopical Orgonometry*, 1943-44
9. *Quantitative Determination of the Orgone*, 1944
10. *The Carcinomatous Shrinking Biopathy*, 1942-43
11. *Orgone-biophysical Blood Tests*, 1942-43
12. *Anorgonia in the Carcinomatous Shrinking Biopathy*, 1945
13. *Orgonotic Pulsation*, 1944
14. *A Motor Force in Orgone Energy*, 1949
15. *Further Characteristics of Vacor Lumination*, 1949
16. *Public Responsibility in the Early Diagnosis of Cancer*, 1949
17. *Cosmic Orgone Energy and 'Ether,'* 1949
18. *Ether, God and Devil*, 1949
19. *Orgonomic and Chemical Cancer Research. A Brief Comparison*, 1950
20. *Orgonomic Literature Ordered from Russia*, 1950
21. *On Scientific 'Control,'* 1950
22. *Orgonometric Equations*: 1. *General Form*, 1950
23. *Meteorological Functions in Orgone-charged Vacuum Tubes*, 1950

24. *The Orgonomic Anti-Nuclear Radiation Project (ORANUR)*, 1950
25. *'Cancer Cells' in Experiment XX*, 1951
26. *The Anti-Nuclear Radiation Effect of Cosmic Orgone Energy*, 1951
27. *Complete Orgonometric Equations*, 1951
28. *The Storm of November 25th and 26th, 1950*, 1951
29. *The Leukemia Problem, I: Approach*, 1951
30. *The Orgone Energy Accumulator, Its Scientific and Medical Use*, 1951
31. *Armoring in a Newborn Infant*, 1951
32. *'Dowsing' as an Object of Orgonomic Research (1946)*, 1951
33. *Three Experiments (1939)*, 1951
34. *Wilhelm Reich on the Road to Biogenesis (1935-1939)*, 1951
35. *The Oranur Experiment: First Report (1947-1951)*, 1951
36. *My Experiences with the Orgone Accumulator*, 1949
37. *The Treatment of a Mediastinal Malignancy with the Orgone Accumulator*, 1949
38. *Orgone Therapy of an Early Breast Cancer*, 1950
39. *Limited Surgery in Orgonomic Cancer Therapy*, 1951
40. *Again the Common Cold*, 1947
41. *Emotional Plague Versus Orgone Biophysics*, 1948
42. *Orgonomic Treatment of Ichthyosis*, 1951
43. *Orgone Therapy. A lecture delivered before the Medical Students Union, Oslo, Norway*, 1950
44. *Orgone Therapy in Rheumatic Fever*, 1950
45. *The Treatment of a Hypertensive Biopathy with the Orgone Energy Accumulator*, 1951
46. *Wilhelm Reich's Concept, 'Cancer Biopathy,'* 1950
47. *The Second Law of Thermodynamics and the Orgone Accumulator*, 1949
48. *Mathematical Questions without Answers*, 1951
49. *Life and Matter. A Series of Three Experiments*, 1938

50. *Physical Orgone Therapy of Diabetes,* 1951
51. *From the History of Science,* 1951

Not mercy or favor, only principled justice of general importance is the objective of this petition. Had I been guilty of a crime, I would have said so. I have done my duty as a responsible citizen and scientist highly placed in society. Moral and legal truth are on my side. I would have to do what I have done again under the same circumstances (R. 532, 533).

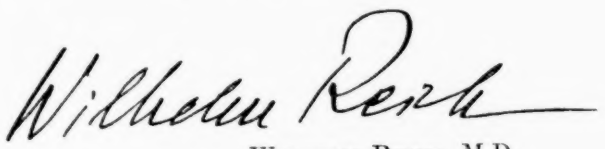
## III. CONCLUSION

The Petition for Writ of Certiorari should be granted:

1. To secure safety and independence of basic natural science.
2. To stop continued fraud upon courts by conspirators against mankind's basic rights.
3. To decide ultimately an important question of federal Law not yet settled by the Supreme Court.
4. To present the acute planetary emergency: ("Rec. App.": Suppressed Evid., Vol. V, OROP DESERT Ea).

Our Planet is in deep trouble.

Respectfully submitted,



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*Pro se*

Washington, D. C.
February 18, 1957

## APPENDIX

Note: This is the original copy from which the photostats were made and sent to the Supreme Court.



PROCEEDINGS IN COURT OF APPEALS.

On September 21, 1956, appellants filed a motion for enlargement of time within which to file their briefs and record appendices. On September 24, 1956, the time for filing such brief and record appendix for appellants was enlarged to October 9, 1956. Briefs for the three appellants and Volumes I, II, and IV of record appendix thereto were filed on October 8, 1956.

Thereafter, on October 16, 1956, the following motion was filed:

MOTION FOR PERMISSION TO SUBMIT GROUP D (VOLUME V OF RECORD APPENDIX) AT A LATER DATE AFTER HAVING BEEN PRINTED.

The request for enlargement of 60 days was based in great part on the need for sufficient time to complete printing of Group D, Volume V of Record Appendix ("Suppressed and Top Secret Evidence"): OROP Ea plus Documentary Appendix Vol. III.

Since only 7 days have been granted, not sufficient to complete printing this approximately 200 page volume, the further request is respectfully submitted to present this volume to the Court at a later date immediately after completion of printing, before, at, or even after the hearing of the appeal.

Respectfully submitted,

/s/ WILHELM REICH, M.D.
Wilhelm Reich, M.D.
Pro se

586 Proceedings in Court of Appeals.

/s/ MICHAEL SILVERT, M.D.
Michael Silvert, M.D.
Pro se

/s/ CHARLES HAYDON
Charles Haydon
Attorney for The Wilhelm Reich Foundation

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Thereafter, on October 18, 1956, the following order of Court was entered:

ORDER OF COURT

October 18, 1956.

It is ordered that appellants' "Motion for Permission to Submit Group D (Volume V of Record Appendix) at a Later Date After Having Been Printed" be, and the same hereby is, denied.

By the Court:

/s/ ROGER A. STINCHFIELD
Clerk.

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Thereafter, on October 22, 1956, the following order of Court was entered:

ORDER OF COURT

October 22, 1956.

Upon consideration of appellee's motion to omit certain exhibits from reproduction

*Appendix*

**Note:**

The "Suppressed Evidence" was not admitted at the trial for two reasons:

1) The trial court (Case 5003) excluded all testimony pertaining to the motive, or "*WHY*" of the behavior of the defendants. This "*suppressed evidence*" contains the essentials of the WHY of the resistance to the injunction.

2) This evidence was kept secret on my part, in addition to being suppressed by the Court. Again, national security required the secrecy as indicated in the "*Response*" of 1954 (R. 85-90). I had to defend the material of Vol. V against unlawful intrusion.

The "Secret, Suppressed Evidence," "Rec. App.", Vol. III and Vol. V, is on trial record in form of indirect pointers, especially in cross-examinations by me of Maguire and certain witnesses: Moise, Silvert, McCullough, Ross, Doherty, and some of the FDA inspectors. (See Pet. p. 38, Points 2 and 3 (trial court error); p. 36.)

*Appendix*

## NEW LAWS NEEDED TO RESTRAIN PATHOLOGICAL POWER DRUNKENNESS

Proposed by Wilhelm Reich, M.D.

*Wisdom gained in clouds*
*is clouded wisdom—*

*True wisdom is rooted in*
*seething reality.*

*WR 1956.*

### First: On Lawfulness of Laws

All new laws proclaimed to govern human conduct in a growing and developing planetary society are designed to secure life, liberty and happiness for all. They must be *Lawful* laws. They must not be unlawful laws. Laws must be based on facts, not on opinions; on truth, not on falsehood. Unlawful orders are automatically null and void.

### Second: On Wellsprings of Social Existence

*Love, Work and Knowledge are the wellsprings of our existence. They are the wellsprings of our life, liberty and happiness with equal justice for all. They shall govern the future planetary social organization.*

### Third: On Life-Necessary Work

*Life-necessary work* and *naturally grown interhuman relationships* shall determine the lawfulness of laws, social responsibility and social guidance. Life-necessary work and natural interhuman relationships comprise *Natural Work Democracy.*

*Appendix*

**Fourth: On Unlawful Laws**

Laws and orders which contradict, impede, destroy or otherwise endanger the development of self-determination and violate peaceful development, shall be null and void.

**Fifth: On Protection of Truth**

*Social battles for truthful procedure are lawful battles. Procedures for elimination, evasion, eradication or falsification of factual truth are unlawful.*

5-1. Juries, judges, magistrates and other judicial persons or bodies must render their verdicts fully informed on all pertinent facts involved in the case. Verdicts based on untruth, suppression or falsification of evidence are unlawful and intrinsically void.

5-2. Social administrations must not interfere with the search for factual truth and basic new knowledge.

5-3. *Learning is the only authority on Knowledge of the Future.* There are no authorities in undisclosed realms of nature or New Knowledge. Learning and improving ability to find and correct one's own mistakes are, among others, true characteristics of bona fide basic research.

5-4. Scientific tools and publications based on learning and search for new knowledge must never be controlled, censored or in any other way molested by any administrative agency of society. Such acts are unlawful, only perpetrated in dictatorships.

5-5. Bona fide scientists, i.e., men and women engaged in learning and searching for new knowledge must not be ever dragged into courts of justice for their opinions or be harassed by commercial or political interests of the day.

5-6. The citizen has the constitutional right to ignore complaints against him *IF* he can prove to the satisfaction of the court that:

A. He has informed the court of his reasons for ignoring the complaint;

B. His reasons to ignore the complaint were weighty, based on proof of fraudulent presentations of fact, on motives to complain other than bona fide grievance, on a competitive conspiracy using illegal means, etc.;

C. The Judge has been victimized, misled, or otherwise prejudiced;

D. Responding to the complaint would have meant inevitable undeserved disaster.

"A" in conjunction with either of "B," "C" or "D" constitute sufficient reason lawfully not to appear in court as defendant.

5-7. *Disclosure of scientific information must not be forced* under any circumstances, by anyone or for whatever reasons.

5-8. *New knowledge requires new administrative laws.* Laws applicable in one defined realm cannot be applied in a different realm of social or natural functioning.

5-9. *Judicial errors mus st be realized and corrected.* They must not be perpetuate ed to the detriment of justice. Perpetuation of judicial er rors for whatever reason is unlawful.

5-10. *Judicial procedures s which are shown to hamper truth and fact and run cou nter to the very meaning of due process of law,* which is t to safeguard indivisible factual truth, *are to be revised or ab olished.*

a) Judges acting in cou rts of justice are responsible for the safety of truth and fact from any interference by expediency, negligence, poli tical or commercial interests. Judges are administrators o f truth and justice, and nothing else.

b) *There is no excuse wh atever for judicial error.* The innocent must not fall prey to faulty procedure. Judges are as law officers subjected to the *Boomerang Law* in case of gross neglect of justice. They shall suffer what they meted out unjustly.

c) Judges are to be ap pointed on the basis of their judicial expertness, not on a ny other, political, racial, commercial or similar grounds.

d) Judges may only in terpret statutory laws. They may not legislate themselve s under our Constitution.

e) Judges must not be beneficiaries or advocates of religious, commercial or po litical enterprises. Their only realm of functioning is jurisprudence and jurisdiction under the Constitution of t he U. S. A., in pursuit of common law decency, truth, fac t, above-board activity, absence of deceit, etc.

**Sixth: On Enemies of Mankind**

Individuals, legal persons, organizations and social groupings which advocate or operate on lines adverse to common natural laws or laws under the Constitution, or I to IV of the "New Law," shall be excluded from determining the course of society. They may *talk* against work democracy, but they may *not act* against the socially-organized rule of Love, Work and Knowledge. As *ENEMIES OF MANKIND,* they may not be elected to public office. Those lawfully declared to be Enemies of Mankind, if insisting on acts of fiendship against the self-rule of Love, Work and Knowledge, shall be subjected to the Seventh Law.

**Seventh: On Boomerang Justice**

Officers of the law, officials of a self-governing society and other highly placed responsible citizens (of the Planet Earth) shall be, if necessary, called before courts of justice to answer charges of *"treason to mankind."* If convicted upon *factual* evidence of treason, they shall be subjected to the *BOOMERANG LAW*: They shall suffer themselves whatever they may have planned against the planetary citizens who through safeguarding *Love, Work* and *Knowledge* as the natural foundations of a self-governing social system have secured true justice at the very source of social life.

**Eighth: On Striking Obsolete Laws**

In order to secure social rational progress and to prevent the development of irrational human adherence to

untimely or hampering tradition, statutory laws which are no longer representing or reflecting living, actual reality shall be stricken from the statute books ("Statutory Rape").

**Ninth: On Safety of Natural Love**

Natural love functions leading up to and expressed in natural courting mating shall be considered *natural functions at the very basis of man's bioenergetic existence.* They shall be protected and secured by special laws. Human activities adverse to this basic natural function shall be prohibited by lawful procedures insofar as they tend to impede or destroy these natural love functions in infants, children, adolescents and grown-ups. Abuse of natural love functions for political, conspiratorial, commercial, pathological (unnatural) and similar purposes is in violation of this law.

**Tenth: On Supervision of Unlawfulness of Legal Procedures**

A special legislative body in Congress shall be established by way of amendment of the Constitution to constantly survey and supervise judiciary and law enforcement procedures. This committee shall be responsible to the people and their organizations of life-necessary work, not only for security of justice, truth and fact; it shall safeguard the constitutional laws which guarantee the development of society to ever more complete self-government of nations, organizations and responsible citizens.